

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2002-217-C - ORDER NO. 2002-868  
DECEMBER 30, 2002

IN RE: Application of Custom Teleconnect, Inc. for a	)	ORDER GRANTING
Certificate of Public Convenience and Necessity	)	CERTIFICATE TO
to Provide Resold Interexchange and Operator	)	PROVIDE RESOLD
Assisted Telecommunications Services and for	)	INTEREXCHANGE
Modified Alternative Regulation.	)	SERVICES AND
	)	MODIFIED
	)	ALTERNATIVE
	)	REGULATION

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Custom Teleconnect, Inc. ("CTI" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. CTI requests that the Commission regulate CTI's long distance business services, consumer card services, operator services and private line service offerings in accordance with the principles and procedures established for relaxed regulation in Orders Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Order No. 2001-997 in Docket No. 2000-407-C (now known as "modified alternative regulation"). The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2001) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed CTI to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The

purpose of the Notice of Filing was to inform interested parties of CTI's application and of the manner and time in which to file the appropriate pleadings for participation in the proceedings. CTI complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or protests regarding the application were received by the Commission.

A hearing was convened on October 31, 2002, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Mignon Clyburn, Chairman, presided. CTI was represented by Bonnie D. Shealy, Esquire. Florence P. Belser, Deputy General Counsel, represented the Commission Staff.

David Barksdale, Chief Financial Officer of CTI, appeared and testified in support of the application. As Chief Financial Officer of CTI, Mr. Barksdale testified that he is responsible for managing all phases of CTI's growth and directions.

According to Mr. Barksdale, CTI was incorporated on October 29, 1993, under the laws of the State of Nevada. On January 31, 2002, CTI was issued, by the South Carolina Secretary of State, a Certificate of Authority to transact business in the State of South Carolina.

In explaining the services which CTI intends to offer, Mr. Barksdale testified that CTI proposes to provide direct dial, toll free, travel card, institutional operator assisted calling, and operator services from aggregator locations for communications originating and terminating within the State of South Carolina.

According to Mr. Barksdale's testimony, CTI has sufficient technical, financial, and managerial resources and ability to provide the telecommunications services for which authority is sought. Mr. Barksdale offered that CTI possesses sufficient managerial, technical, marketing, and administrative experience to operate as a reseller within the State of South Carolina and that CTI's staff is qualified to support CTI's telecommunications services offerings. Further, CTI is already certified to provide its services in all other states, except for Indiana, Connecticut, South Carolina, and the District of Columbia.

With regard to the financial qualifications, Mr. Barksdale stated that CTI is financially able to provide the proposed services as minimal capital investment is required to extend its services to enter the South Carolina market. Initial costs are limited to the cost of certification and initial marketing. Additional costs incurred by CTI for South Carolina customers will be incremental per-call costs assessed by the underlying carriers for switching and transporting calls, and these costs will be directly recovered in the rates charged to CTI's customers.

As to technical qualifications to provide the requested services, CTI will rely on its experienced management and administrative staff. Further, CTI is presently providing its services in other states. Mr. Barksdale also explained CTI's customer service operations.

CTI indicates a desire to have its long distance business services, including consumer card services, operator services, and private line services offerings regulated by modified alternative regulation. CTI requested that all of its long distance business

service offerings be regulated pursuant to the procedures described and set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. It is CTI's intent by this request to have its long distance business services regulated in the same manner as this Commission has permitted for AT&T Communications of the Southern States. Alternative regulation has now been modified by this Commission through the re-imposition of rate caps with regard to certain "operator assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls.

According to the Application and Mr. Barksdale's testimony, CTI seeks a waiver from the Commission Rules and Regulations. CTI requests a waiver of 26 S.C. Code Regs. 103-610 (1976) so that it may maintain its records outside of South Carolina. Specifically, CTI seeks to maintain its books and records at its headquarters office in Las Vegas, Nevada. Mr. Barksdale stated that CTI is aware of and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Mr. Barksdale stated that CTI will maintain a registered agent in South Carolina and that CTI will bear any costs associated with the Commission's inspection of CTI's books and records. CTI also requests that it be allowed to keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

According to Mr. Barksdale, CTI has never had authority denied in any state where it has applied for authority nor has CTI had authority revoked in any state where it has been granted authority. Additionally, CTI has never been the subject of an investigation nor been fined or sanctioned by a state or federal regulatory body. According to the testimony, CTI has not marketed its services in South Carolina prior to receiving certification. Finally, Mr. Barksdale stated that CTI will abide by all the Commission's rules, regulations and Orders upon receiving certification to operate as a telecommunications provider in South Carolina.

After full consideration of the applicable law, CTI's Application, and the evidence presented at the hearing, the Commission hereby issues its Findings of Fact and Conclusions of Law:

#### **FINDINGS OF FACT**

1. CTI is a privately-held corporation duly organized and existing under the laws of the State of Nevada and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. CTI is a provider of interexchange telecommunications services and wishes to provide its services in South Carolina.

3. CTI has the managerial, technical, and financial resources to provide the services as described in its application.

4. The Commission finds that CTI should be granted a waiver of 26 S.C. Code Regs. 103-610 requiring that reports and records be maintained within the State of South Carolina.

5. The Commission finds it appropriate for CTI to maintain its books and records using Generally Accepted Accounting Principles (GAAP) rather than the Uniform System of Accounts (USOA) as developed by NARUC.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that a Certificate of Public Convenience and Necessity should be, and hereby is, granted to CTI to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for the interexchange business services of CTI consistent with the principles and procedures established for alternative regulation of long distance business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No. 2001-997. Following the modification of the alternative regulation by Commission Order No. 2001-997, this form of regulation is commonly referred to by the Commission, Staff, and others as “modified alternative regulation.”

Under the Commission approved modified alternative regulation, the business service offerings of CTI, including consumer card services, operator services and private line services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However,

pursuant to Order No. 2001-997 issued in Docket No. 2000-407-C, this Commission has modified the previously approved alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme known as modified alternative regulation, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to CTI also.

3. With regard to any residential interexchange service offerings of CTI, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. With regard to residential interexchange service rates, CTI shall not adjust its residential interexchange service rates below the approved maximum levels without notice to the Commission and to the public. CTI shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the Commission

two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of CTI's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2001).

5. If it has not already done so by the date of issuance of this Order, CTI shall file its revised interexchange tariffs and accompanying price lists within thirty (30) days of receipt of this Order. The revised tariffs shall be consistent with the findings of this Order, shall incorporate the changes suggested by the Staff and with which CTI agreed, and shall be consistent with South Carolina law, including the Commission's Rules and Regulations.

6. CTI is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to CTI's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.



8. CTI shall resell the services of only those interexchange carriers or LECs authorized by this Commission to provide telecommunications services within the State of South Carolina. If CTI changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, CTI shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, CTI shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

10. CTI shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The annual report and the gross receipt filings will necessitate the filing of intrastate information. Therefore, CTI shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form to be used in filing annual financial information with the Commission may be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). The two-page form CTI is required to use in which to file the required information is entitled "Annual Information on South Carolina Operations for Interexchange Companies and AOS." Be advised that the

Commission's annual report form requires the filing of intrastate revenues and intrastate expenses.

11. CTI shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, CTI shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies occurring during non-office hours.

CTI shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form CTI is required to use by which to file the authorized utility representative information may be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). This form is entitled "Authorized Utility Representative Information." Further, CTI shall promptly notify the Commission in writing if any representatives are replaced.

CTI shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2001).

12. CTI shall conduct its business in compliance with Commission decisions and Orders, both past and future.

13. With regard to CTI's request for a waiver 26 S.C. Code Regs. 103-610 of the Commission's Rules and Regulations, CTI is hereby granted a waiver of 26 S.C. Code Regs. 103-610. Further, CTI may keep its books and records according to Generally

Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA), as requested. As to CTI's request for a waiver of 26 S.C. Code Regs. 103-610 (1976) so that it may maintain its records outside of South Carolina, CTI is granted this waiver and may maintain its books and records at its headquarters office in Las Vegas, Nevada, on the condition as agreed to by CTI that these records be made available for examination by the Commission at reasonable hours and at the expense of CTI. Finally, CTI may keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

14. Each telecommunications company certified in South Carolina is required to file annually the Intrastate State Universal Service Fund (USF) worksheet. This worksheet provides the Commission Staff with information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15<sup>th</sup>.

15. CTI is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

16. This Order shall remain in full force and effect until further Order of the Commission.

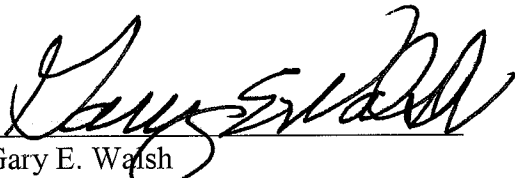
BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn  
Chairman

ATTEST:



Gary E. Walsh  
Executive Director

(SEAL)